

**AMENDMENTS TO THE CLAIMS**

*Please amend the claims as follows:*

1-40. (CANCELED)

41. (CURRENTLY AMENDEED) A method of formatting an optical recording medium, said optical recording medium including a first spare area, a second spare area for replacing a defective unit with available replacement unit, and a defect management area including a defect management information for managing a defective area, the method comprising:

(a) formatting the optical recording medium in response to the formatting request at least to use the second spare area as a user data area after formatting; and,

(b) resetting a location information of the second spare area to indicate a changed size of the second spare area after formatting,

wherein the step (a) of formatting the optical recording medium includes creating a new defect list of the defect management area to replace an old defect list, and

wherein the second spare area has a variable size and a start position of the second spare area is varied, depending upon the variance of the size of the second spare area, while an end position of the second spare area is fixed and is located close to a lead-out area of the recording medium.

42. (PREVIOUSLY PRESENTED) The method of claim 41, further comprising:

(c) determining if the second spare area has been assigned prior to said formatting step (a) and said resetting step (b),

wherein said steps (a) and (b) are performed if the second spare area has been assigned.

43. (CURRENTLY AMENDED) The method of claim 41, wherein said formatting step (a) comprises:

(a1) registering sectors judged to have defects into a ~~the~~ new-PDL ~~(primary defect list)~~ defect list, if the optical recording medium is to be formatted with certification.

44. (CURRENTLY AMENDED) The method of claim 43, wherein said formatting step (a) further comprises:

(a2) disposing an old ~~SDL~~ defect list that existed prior to said formatting step (a), if the optical recording medium is to be formatted with certification.

45. (CURRENTLY AMENDED) The method of claim 41, wherein said formatting step (a) comprises:

(a1) registering all sectors previously judged in an old ~~SDL (secondary defect list)~~ defect list into a the new PDL (primary defect list) ~~defect list~~ if the optical recording medium is to be formatted without certification.

46. (PREVIOUSLY PRESENTED) The method of claim 41, further comprising:

(c) storing the location information of the second spare area in the defect management area of the optical recording medium.

47. (PREVIOUSLY PRESENTED) The method of claim 46, wherein the location information of the second spare area includes the start position of the second spare area on the optical recording medium.

48. (PREVIOUSLY PRESENTED) The method of claim 47, wherein said resetting step (b) comprises:

(b1) resetting the start position of the location information.

49. (NEW) A method of formatting an optical recording medium, said recording medium including a first spare area, a second spare area for

replacing a defective area with available replacement area which has a variable size, and a defect management area including a defect management information for managing the defective area, the defect management information including a first information to indicate a defective unit found at least after formatting, the first information further including a second information to indicate a location of the second spare area, the method comprising:

(a) checking if a command for formatting of the optical recording medium is received;~~and~~

(b) changing the second spare area to a user area to be written, if the command is received, while resetting the second information to indicate a changed size of the second spare area after formatting;and

(c) creating a new defect list of the defect management area to replace an old defect list,

wherein the second information includes start and end addresses of the second spare area, and the end address is fixed and is located close to a lead-out area of the recording medium, while the start address is varied, upon the variance of the size of the second spare area.

50. (PREVIOUSLY PRESENTED) A recording medium, comprising:

a first spare area and a second spare area for replacing a defective area with an available replacement area; and

a defect management area including a defect management information for managing a defective area, the defect management information including a first information to indicate the defective area found at least after formatting, the first information further including a second information to indicate a location of the second spare area,

wherein the second spare area can be changed to a usable user area when formatting, while the second information is reset to indicate a changed size of the second spare area after formatting, and wherein the second spare area has a variable size and a start position of the second spare area is varied, depending upon the variance of the size of the second spare area, while an end position of the second spare area is fixed and is located close to a lead-out area of the recording medium, and

wherein a new defect list of the defect management area is created to replace an old defect list when formatting.